

## **§ 904.210**

### **§ 904.210 Summary decision.**

The Judge may render a summary decision disposing of all or part of the proceeding if:

- (a) Jointly requested by every party to the proceeding; and
- (b) There is no genuine issue as to any material fact and a party is entitled to summary decision as a matter of law.

[61 FR 54731, Oct. 22, 1996]

### **§ 904.211 Failure to appear.**

(a) If a party fails to appear after proper service of notice, the hearing may proceed. A notation of failure to appear will be made in the record, and the hearing may be conducted with the parties then present, or may be terminated if the Judge determines that proceeding with the hearing will not aid the decisional process.

(b) The Judge will place in the record all the facts concerning the issuance and service of the notice of time and place of hearing.

(c) The Judge may deem a failure of a party to appear after proper notice a waiver of any right to a hearing and consent to the making of a decision on the record.

### **§ 904.212 Failure to prosecute or defend.**

Whenever the record discloses the failure of either party to file documents, respond to orders or notices from the Judge, or otherwise indicates an intention on the part of either party not to participate further in the proceeding, the Judge may issue any order, except dismissal, that is necessary for the just and expeditious resolution of the case.

[61 FR 54731, Oct. 22, 1996]

### **§ 904.213 Settlements.**

If settlement is reached before the Judge has certified the record, the Judge may require the submission of a copy of the settlement agreement to assure that the Judge's consideration of the case is completed and to order the matter dismissed on the basis of the agreement.

## **15 CFR Ch. IX (1-1-03 Edition)**

### **§ 904.214 Stipulations.**

The parties may, by stipulation, agree upon any matters involved in the proceeding and include such stipulations in the record with the consent of the Judge. Written stipulations must be signed and served upon all parties.

### **§ 904.215 Consolidation.**

The Judge may order two or more proceedings that involve substantially the same parties or the same issues consolidated and/or heard together.

### **§ 904.216 Prehearing conferences.**

(a) Prior to any hearing or at other time deemed appropriate, the Judge may, upon his or her own initiative, or upon the application of any party, arrange a telephone conference and, where appropriate, record such telephone conference, or direct the parties to appear for a conference to consider:

(1) Simplification or clarification of the issues or settlement of the case by consent;

(2) The possibility of obtaining stipulations, admissions, agreements, and rulings on admissibility of documents, understandings on matters already of record, or similar agreements that will avoid unnecessary proof;

(3) Agreements and rulings to facilitate the discovery process;

(4) Limitation of the number of expert witnesses or other avoidance of cumulative evidence;

(5) The procedure, course, and conduct of the hearing;

(6) The distribution to the parties and the Judge prior to the hearing of written testimony and exhibits in order to expedite the hearing;

(7) Such other matters as may aid in the disposition of the proceeding.

(b) The Judge in his or her discretion may issue an order showing the matters disposed of in such conference.

## **DISCOVERY**

### **§ 904.240 Discovery generally.**

(a) *Preliminary position on issues and procedures.* Prior to hearing the Judge will ordinarily require from the parties a written submission stating their preliminary positions on legal and factual issues and procedures, listing potential